

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of TIMOTHY LEON NELSON, JR.  
and JOSHUA LEROY NELSON, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TIMOTHY LEON NELSON, SR.,

Respondent-Appellant,

and

SHARI ANN NELSON,

Respondent.

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UNPUBLISHED

September 30, 2004

No. 254514

Kalamazoo Circuit Court

Family Division

LC No. 02-000073-NA

Before: Borrello, P.J., and Murray and Fort Hood, JJ.

MEMORANDUM.

Respondent Timothy Nelson appeals as of right from a circuit court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(g) and (h). We affirm.

The trial court did not clearly err in finding that at least one statutory ground for termination had been proved by clear and convincing evidence. *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999). Respondent, who had not had any contact with his sons since 1997, was incarcerated and would not be released until May 2008.

Further, the trial court's finding regarding the child's best interests was not clearly erroneous. *In re Trejo Minors*, 462 Mich 341, 354, 356-357; 612 NW2d 407 (2000); MCL 712A.19b(5). While the court may continue temporary wardship and allow the child to be placed with a proper custodian, such as a relative of the child, *In re McIntyre*, 192 Mich App 47, 53; 480 NW2d 293 (1991), nothing in the law directs the court to refrain from ordering termination when the child could alternatively be placed with relatives. *In re Futch*, 144 Mich App 163, 170; 375 NW2d 375 (1984). Thus, if the court finds that it is within the best interests of the child to do so, it may terminate parental rights instead of placing the child with relatives. *In re IEM*, 233 Mich App 438, 453; 592 NW2d 751 (1999); *McIntyre*, *supra* at 52.

Here, respondent proposed his two brothers and current wife as temporary custodians. Respondent's brothers, who had not had any contact with the children in six years, had recently expressed any willingness to take custody of the boys. There was no evidence that respondent's wife, who had no apparent relationship with the boys, was interested in raising them in respondent's absence and the home study evaluation indicated that she was not a suitable custodian. The trial court did not clearly err in terminating respondent's parental rights rather than delaying permanency for nearly the whole of children's minority in the hope that they might reestablish a relationship with a father they had not seen in over ten years. *Trejo, supra* at 356-357.

Affirmed.

/s/ Stephen L. Borrello  
/s/ Christopher M. Murray  
/s/ Karen M. Fort Hood